

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

IN RE:)
ROBERTO FUENTES and) Case No. 19-10041-SAH.
SANDRA CRUZ FUENTES,) Chapter 7.
Debtors.)

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND
REQUEST FOR ABANDONMENT OF PROPERTY AND REQUEST FOR WAIVER OF
14 DAY STAY PURSUANT TO LR 4001-I(B) AND BRIEF IN SUPPORT AND NOTICE
AND OPPORTUNITY FOR HEARING**

COMES NOW, First United Bank and Trust Company, (hereinafter referred to as Movant) and pursuant to the provisions of Title 11 *U.S.C* §361, §362 and §554, moves the Court to grant it relief from the automatic stay and for an order of abandonment of the property hereinafter described in support of its Motion, Movant alleges and states as follows:

1) Movant, First United Bank and Trust Company is the holder of a Promissory Note dated September 25, 2014, from RTS Construction, Roberto Fuentes and Roberto Fuentes, Jr., to First United Bank and Trust Company.

2) Roberto Fuentes and Sandra Cruz Fuentes, Debtors, filed a bankruptcy Petition with this Court and an order for relief under Chapter 7 was entered on January 8, 2019.

3) Lyle R. Nelson, Oklahoma City, Oklahoma, has been appointed trustee of the bankruptcy estate.

4) The Debtors are indebted to said First United Bank and Trust Company, in the principal amount of \$68,742.84, plus accruing interest thereon at the rate of 6.5% per annum from and after June 8, 2018, until paid, evidenced by the Promissory Note, Commercial Debt Modification Agreement, Mortgage and Judgment attached hereto and marked Exhibits "A" to "F", inclusive.

5) Among the assets securing the claim by First United Bank and Trust Company, is the following asset of the Debtor:

Lot Nine (9), in Block Three (3), of MEADOW OAK ADDITION, an Addition to Midwest City, Oklahoma County, Oklahoma, as shown by the recorded plat thereof. The Real Property or its address is commonly known as 8717 Cedar Lane, Midwest City, Oklahoma 73110.

6) That the Debtor is in arrears in payment of the Promissory Note as payments have been

made to January 1, 2018, but no payments have been paid since and there is now due, owing and unpaid on said Note the sum in the principal amount of \$68,742.84, plus accruing interest thereon at the rate of 6.5% per annum from and after June 8, 2018, until paid. Movant has foreclosed said Promissory Note and mortgage in the District Court of Oklahoma County, Oklahoma, Case No. CJ-2018-3538 and Judgment was entered November 30, 2016. Movant desires to complete its Sheriff's Sale and repossess the property.

9) Movant alleges that there is insufficient equity in the property to be of any value to the estate and that the property is burdensome; that Movant is not adequately protected; that the subject property is not necessary to an effective reorganization or rehabilitation and that it would be unfair and inequitable to delay this secured creditor in the foreclosure of its interest. Therefore, cause exists to provide relief from the automatic stay and abandonment.

10) This Court has jurisdiction of this action pursuant to the provisions of title 28 U.S.C. Section 157(b)(2)(G) and 11 U.S.C. Section 362(d).

11) As Debtors are in default under their obligations to First United Bank and Trust Company, judgment has been entered and that the property is in danger of declining in value, Movant requests that this order not be stayed.

WHEREAS, First United Bank and Trust Company moves the Court for an order modifying the automatic stay as to the Debtor(s) and the above described Property, order the abandonment of the Property from the bankruptcy estate, order that the stay of this order provided in Bankruptcy Rule 4001 (a)(3) shall not apply, and grant such additional relief as this Court deems equitable.

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about our rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court of the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. **The 14 day period includes the three (3) days allowed for mailing provided for in Fed. R. Bankr. P. 9006(f).**

DATED: January 24, 2019.

First United Bank and Trust Company

By: /s/ Bill C. Lester
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CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that on this 24th day of January, 2019, a true and correct copy of the correct copy of the Motion for Relief from Automatic Stay and Abandonment of Property and Brief in Support Thereof and Notice of Opportunity for Hearing was electronically served using the CM/ECF system, namely:

Bankruptcy Trustee, Lyle R. Nelson
Office of the United States Trustee
B. David Sisson, Attorney for Debtors

/s/ Bill C. Lester
BILL C. LESTER